



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

ADVANCE COPY BY FACSIMILE

AUG 05 2008

Mr. Steven W. Kleinman, Esq.

Hoboken, NJ 0703

RE: MUR 5693  
Aronsohn et al.


Dear Mr. Kleinman:

On July 28, 2008, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, Paul Aronsohn and Paul Aronsohn for Congress f/k/a Aronsohn Congressional Exploratory Campaign and Parisa Sabeti, in her official capacity as treasurer ("the Committee"). This agreement is in settlement of a violation of 2 U.S.C. § 432(e)(1) with respect to Paul Aronsohn, and violations of 2 U.S.C. §§ 433(a) and 434(a)(2) with respect to the Committee, provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty and the filing of a 2005 Year-End Report are due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

  
Roy Q. Luckett  
Attorney

Enclosure:  
Conciliation Agreement

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1  
2 **BEFORE THE FEDERAL ELECTION COMMISSION**  
3  
4

5 In the Matter of )  
6 ) MUR 5693  
7 Paul Aronsohn )  
8 Paul Aronsohn for Congress f/k/a Aronsohn )  
9 Congressional Exploratory Campaign and )  
10 Parisa Sabeti, in her official capacity as treasurer )  
11

12  
13 **CONCILIATION AGREEMENT**  
14

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
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15 These matters were initiated by signed, sworn, and notarized complaints. The Federal  
16 Election Commission ("Commission") found probable cause to believe that Respondent Paul  
17 Aronsohn violated 2 U.S.C. § 432(e)(1) and Respondent Paul Aronsohn for Congress f/k/a  
18 Aronsohn Congressional Exploratory Campaign ("Aronsohn's Committee") and Parisa Sabeti, in  
19 her official capacity as treasurer (collectively "Respondents"), violated 2 U.S.C.  
20 §§ 433(a) and 434(a)(2).

21 NOW, THEREFORE, the Commission and Respondents, having duly entered into  
22 conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

23 I. The Commission has jurisdiction over Respondents and the subject matter of this  
24 proceeding.

25 II. Respondents have had a reasonable opportunity to demonstrate that no action should  
26 be taken in this matter.

27 III. Respondents enter voluntarily into this agreement with the Commission.

28 IV. The pertinent law and facts in this matter are as follows:

29 1. In April 2005, Paul Aronsohn first undertook an exploratory campaign to determine  
30 whether he should become a candidate for the United States House of Representatives in New

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Jersey's 5<sup>th</sup> Congressional District. Aronsohn filed a Statement of Candidacy on January 23, 2006 and Paul Aronsohn for Congress, his principal campaign committee, filed its Statement of Organization on February 16, 2006.

2. Parisa Sabeti is the current treasurer of Aronsohn's Committee. She became treasurer on February 16, 2006, after the events described herein.

3. The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that an individual seeking nomination for election to Federal office is deemed to be a "candidate" when he or she receives contributions or makes expenditures aggregating in excess of \$5,000. 2 U.S.C. § 431(2)(A). An individual is also so deemed if he or she has given consent to a committee to receive contributions or make expenditures on his or her behalf, and that committee has received contributions or made expenditures in excess of \$5,000. 2 U.S.C. § 431(2)(B).

4. The Commission's "testing the waters" regulations, 11 C.F.R. §§ 100.72(a) and 100.131(a), exempt from the definitions of "contribution" and "expenditure" funds received solely for the purpose of determining whether an individual should become a candidate. The exemptions do not apply to funds received or payments made for activities indicating that an individual has decided to become a candidate for a particular office or for activities relevant to conducting a campaign. *Id.* These regulations seek to draw a distinction between activities directed to an evaluation of the feasibility of one's candidacy, as distinguished from conduct signifying that a private decision to become a candidate has been made. Advisory Opinion 1981-32.

5. The Commission's regulations provide that examples of activities indicating that an individual has decided to become a candidate include, but are not limited to: raising funds in excess of what could reasonably be expected to be used for exploratory activities or activities designed to amass funds to be spent after becoming a candidate; or making or authorizing written or oral

statements that refer to the individual as a candidate for a particular office. 11 C.F.R. §§ 100.72(b) and 100.131(b).

6. If the individual who had been “testing the waters” subsequently becomes a candidate, funds received or payments made for “testing the waters” are contributions and expenditures subject to the reporting requirements of the Act. 11 C.F.R. §§ 100.72(a) and 100.131(a). Such contributions and expenditures must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received and the payments made. *Id.*

7. The Act and the Commission’s regulations provide that, within fifteen days of becoming a candidate, an individual must file a statement of candidacy with the Commission that designates the candidate’s principal campaign committee. 2 U.S.C. § 432(e)(1); *see also* 11 C.F.R. § 101.1(a).

8. No later than ten days after it has been designated by the candidate, the principal campaign committee must file a statement of organization. 2 U.S.C. § 433(a).

9. If a committee is the principal campaign committee for a candidate running for the House of Representatives, it must file timely financial disclosure reports as required by 2 U.S.C. § 434(a)(2).

10. Aronsohn’s Committee both received and spent in excess of \$5,000 by April 2005, but it appears that Aronsohn was still “testing the waters” at that time.

11. On October 27, 2005, Aronsohn drafted and sent a two page solicitation letter on Aronsohn “Congressional Exploratory Campaign” letterhead, and used the word “exploratory” therein two other times. After stating on the first page that the incumbent, Representative Scott Garrett, “represents all that is wrong in Washington,” Aronsohn reasons that the incumbent is a vulnerable opponent because he is too “divisive,” “extreme” and “disconnected from the real issues

that affect real people.” On the second page, Aronsohn makes statements indicating that he had decided to run for Federal office. For instance, he states that although “[d]efeating an incumbent is never easy,” he has the skills to “win the race” and is “ready to begin fighting for our future ...now.” He also states that he “now” wants to take his political and business experience and his passion for public service and “put them to work for the people of New Jersey’s 5<sup>th</sup> Congressional District.”

Additionally, Aronsohn affirmatively incorporates in his October 27, 2005 letter an attached news article from the September 11, 2005 edition of the *Star Ledger* as explicit evidence that he is “ready to begin fighting for our future ... now.” The news article focuses on Representative Garrett’s vote against a bill providing money for Hurricane Katrina relief, and his explanation of that vote. It identifies Aronsohn as a “Democratic challenger” to Garrett, and quotes Aronsohn as saying of the vote, “It’s outrageous ... It would have been the right thing to send a message to the people in the Gulf Coast that the nation stands behind them in unison. But he lacks the compassion and decency to do that.” Further, Aronsohn’s letter solicits the reader for funds that are geared toward defeating his opponent. Specifically, he states that “[e]very dollar we receive in the next few weeks can help us prepare for this fight against Scott Garrett.” By indicating that the solicited funds will be used to campaign against a specifically named opponent, Aronsohn effectively communicates that he is committed to the race, and no longer just evaluating the viability of his candidacy. This same statement indicates Aronsohn’s intention to amass campaign funds to spend after he becomes a candidate. *See* 11 C.F.R. § 100.72(b)(2).

12. Aronsohn became a candidate no later than October 27, 2005, when he made statements in this letter indicating that he had decided to become a candidate for Federal office, given that his Committee had already raised and spent more than \$5,000 by that time. *See* 11 C.F.R. §§ 100.72(b)(3) and 100.131(b)(3).

1           13. Aronsohn should have filed his Statement of Candidacy within 15 days of his  
2           October 27, 2005 letter, or by November 11, 2005. Aronsohn, however, did not file his Statement  
3           of Candidacy until January 23, 2006.

4           14. Within ten days of November 11, 2005, or by November 21, 2005, Aronsohn's  
5           Committee should have filed its Statement of Organization. However, Aronsohn's Committee did  
6           not file its Statement of Organization until February 16, 2006.

7           15. Aronsohn's Committee was required to file as its first report the 2005 Year End Report,  
8           due on January 31, 2006. Aronsohn's Committee did not file the 2005 Year End Report, and  
9           instead filed as its first report the 2006 April Quarterly Report.

10          V.           1.     Paul Aronsohn violated 2 U.S.C. § 432(e)(1) by failing to file a Statement of  
11          Candidacy designating his principal campaign committee within fifteen days of becoming a  
12          candidate. Aronsohn will cease and desist from violating 2 U.S.C. § 432(e)(1).

13                 2.     Paul Aronsohn for Congress f/k/a Aronsohn Congressional Exploratory  
14          Campaign and Parisa Sabeti, in her official capacity as treasurer, violated 2 U.S.C. § 433(a) by  
15          failing to file a timely statement of organization. These Respondents will cease and desist from  
16          violating 2 U.S.C. § 433(a).

17                 3.     Paul Aronsohn for Congress f/k/a Aronsohn Congressional Exploratory  
18          Campaign and Parisa Sabeti, in her official capacity as treasurer, violated 2 U.S.C. § 434(a)(2) by  
19          failing to file a 2005 Year End Report. These Respondents will cease and desist from violating  
20          2 U.S.C. § 434(a)(2).

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1 VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in  
2 the amount of Six Thousand Five Hundred Dollars (\$6,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

3 2. Respondents will file a 2005 Year-End Report with the Federal Election  
4 Commission.

5 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.  
6 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance  
7 with this agreement. If the Commission believes that this agreement or any requirement thereof has  
8 been violated, it may institute a civil action for relief in the United States District Court for the  
9 District of Columbia.

10 VIII. This agreement shall become effective as of the date that all parties hereto have  
11 executed same and the Commission has approved the entire agreement.

12 IX. Respondents shall have no more than thirty (30) days from the date this agreement  
13 becomes effective to comply with and implement the requirement contained in this agreement and  
14 to so notify the Commission.

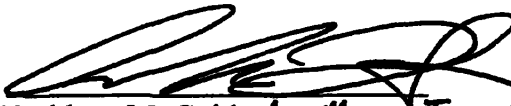
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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, which is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:


Thomasenia P. Duncan  
General Counsel

BY:

  
~~Kathleen M. Guith~~ ANN MARIE TERZAKEN  
~~Acting Associate General Counsel~~  
for Enforcement

8/4/08  
Date

FOR THE RESPONDENTS:

  
(Name) Steven W. Kleinman, Esq.  
(Position) Counsel for Respondents

February 14, 2008  
Date

Paul Aransohn  
Paul Aransohn for Congress  
Paris Saboti (in her official capacity as Treasurer)